

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance  
(916) 322-5662

Administration  
322-5660

Executive/Legal  
322-5901

Enforcement  
322-6441

Statements of Economic Interest  
322-6444

log - ✓  
file - ✓

TA - ✓  
WL - ✓  
Ent - ✓

January 30, 1985

*Superseded  
by 18216*

Peter M. Barmack  
Covington & Crowe  
P.O. Box 1515  
Ontario, CA 91762

Re: Your Request for Advice  
Our No. A-85-006

Dear Mr. Barmack:

This letter is to confirm my previous telephone advice to you, rendered on January 23, 1985.

### FACTS

You represent a Major Donor Committee (MD), R. E. Wolfe Enterprises of California, which, together with its parent entity, Tri-City Construction Co. of Kansas City, files a consolidated major donor statement (Form 461). MD became a guarantor on a loan from a commercial bank to a borrower who, in turn, loaned the funds to a candidate. The candidate is now unable to repay the loan to the borrower, who is, in turn, unable to repay the bank. Consequently, MD has been making payments to the bank as guarantor on the loan. MD knew the purpose of the loan at the time it was taken out and guaranteed by MD.

### QUESTION

What reporting responsibilities are there on the part of MD?

### CONCLUSION

MD must report the payments which it actually has made to the bank as contributions to the candidate. The candidate must report these as contributions from MD.

Peter M. Barmack  
January 30, 1985  
Page 2

ANALYSIS

The Political Reform Act<sup>1/</sup> defines the term "contribution" as follows:

"Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes.... (Emphasis added.)

Section 82015.

In the instant situation we have "a payment of a loan by a third party" for which "full and adequate consideration" has not been received. Given the surrounding circumstances, it is clear that MD knew the loan was to be used for political purposes. MD knew that the loan it was guaranteeing was to be used to make a loan to the candidate.

The payments on the loan on behalf of the borrower which are made by MD then become "contributions" as they are made and should be reported on the appropriate reports.

If you have any further questions regarding this advice, I may be reached at (916) 322-5901.

Sincerely,

Robert E. Leidigh  
Counsel  
Legal Division

REL:plh

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code.

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**SUPERSEDED**

by Reg. 18216

January 30, 1985

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Counsel  
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COVINGTON & CROWE

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PETER M. BARMACK

LESLIE Q. ADMIRE

January 10, 1985

EXPRESS DELIVERY

FAIR POLITICAL PRACTICES COMMISSION  
1100 "K" Street  
Sacramento, California  
95814

Attn: Ms. Carla Wardlow

Re : Request for Advice

Dear Ms. Wardlow:

This office on behalf of a major donor committee, requests the advice of the FPPC as follows:

FACTS

Major Donor Committee (MD) is a guarantor on a loan made by a bank to borrower (B), the proceeds of which loan were thereafter loaned by (B) to a candidate for public office (C). MD did not guarantee the loan between B and C. B has not made payments to the bank on the loan between B and the bank, requiring that payments be made, as guarantor, by MD. MD does not know the status of the loan between B and C, and has not made any payments directly to either B or C.

ADVICE REQUESTED

We respectfully request your advice on whether or not MD has any obligation to report the payments made to the bank, as guarantor, on behalf of B. If so, what is the authority and basis for said obligation? Lastly, if there is an obligation, to report these payments by MD, how should the transaction be reported on form 461, Expenditure and Major Donor Campaign Statement?

Your prompt response to enable us to meet the January 31, 1985 deadline for the Semi-Annual Statement for the period ended December 31, 1984 is appreciated.

FAIR POLITICAL PRACTICES COMMISSION  
Re: Request for Advice  
January 10, 1985  
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Should you have any questions or need further information in order to provide the requested advice, we request you contact the undersigned immediately.

Respectfully,

COVINGTON & CROWE



Peter M. Barnack

PMB:mfh